



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Homer Garrison, Jr., Director
Department of Public Safety
Camp Mabry
Austin, Texas

Dear Sir:

Opinion No. 0-6987

Re: What type of driver's license should be required for the operator of the following motor vehicles: a city-owned fire truck driven by a city employee; a privately-owned ambulance or hearse driven by an employee when only a part of his assigned duties is driving such vehicle?

Your request for our opinion on the above questions reads as follows:

"We would appreciate receiving an opinion from your department as to what type of driver's license should be required for the operator of each of the following motor vehicles:

"1. A city-owned fire truck driven by a city employee.

"2. A privately-owned ambulance or hearse driven by an employee when only a part of his assigned duties is driving such automobile."

Article 6687b, Vernon's Annotated Civil Statutes, provides in part as follows:

"Section 1. Definition of words and phrases.
"The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this title.

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"(l) 'Driver.' Every person who drives or is in actual physical control of a vehicle.

"(m) 'Operator.' Every person, other than a chauffeur or commercial operator, who is in actual physical control of a motor vehicle upon a highway.

"(n) 'Commercial Operator.' Every person who is the driver of a motor vehicle designed or used for the transportation of property, including all vehicles used for delivery purposes, while said vehicle is being used for commercial or delivery purposes.

"(o) 'Chauffeur' Every person who is the driver for wages, compensation, or hire, or for fare, of a motor vehicle transporting passengers.

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"(q) 'Highway.' The entire width between property lines of any road, street, way, thoroughfare, or bridge in this State not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the State has legislative jurisdiction under its police power."

"Sec. 2. Drivers must have license.

"(a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this State unless such person has a valid license as an operator, a commercial operator, or a chauffeur under the provisions of this Act.

"(b) Any person holding a valid chauffeur's or commercial operator's license hereunder need not procure an operator's license."

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"Sec. 3. What persons are exempt from license.

"The following persons are exempt from license hereunder:

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"* * * provided, however, it shall not be necessary for an employee of any incorporated city, town, or village of this State, or county of this State, when holding an operator's permit, to obtain a chauffeur's license in order to operate an official motor vehicle in the service of such incorporated city, town, village, or county;"

It is our opinion that the above quoted provisions of said statute require the driver of a city-owned fire truck to have an operator's license, unless he already has a valid chauffeur's or commercial operator's license. If said driver has either a valid chauffeur's or commercial operator's license, he is not required to also have an operator's license.

As to your question No. 2, we are of the opinion that the quoted provisions of said statute require the driver of a privately-owned ambulance or hearse to have a chauffeur's license. The fact that such driver performed other duties and that the driving of said ambulance or hearse was only a part of his duties would not make any difference, as he is required to have a license when he is in actual physical control of a motor vehicle upon a highway for any period of time.

Your attention is directed to Subdivision 6 of Section 3 of said statute, however, as to certain persons who are exempt from all requirements relative to securing a driver's license, said Subdivision 6 reading as follows:

"Any person in the Armed Forces of the United States who is on leave or furlough or who may be temporarily absent from his or her post of duty, or who has been honorably discharged from the Armed Forces of the United States of America for not more than six (6) months; provided, however, that this exemption shall extend only until the cessation of hostilities in the present war and for one year thereafter."

Yours very truly,

ATTORNEY GENERAL OF TEXAS

BY *Jas. W. Bassett*
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Assistant



JWB:LJ